

< Local Councils play an active role in building and managing essential infrastructure. >



A new independent infrastructure body Discussion Document

Local Government New Zealand's submission to The Treasury

26 October 2018

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We are. LGNZ.

Local Government New Zealand (LGNZ) is the national organisation of local authorities in New Zealand. All 78 councils are members. We represent the national interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This submission was endorsed under delegated authority by Mayor Dave Cull, President, Local Government New Zealand.

Introduction

The Government is proposing a new independent infrastructure body to carry out functions that span two broad areas: strategy and planning, and project delivery support. In doing so, it intends for it to fulfil eight functions, among which include:

- Coordinate and publish capital intentions plans and pipeline information;
- Provide new, expert, central transactional capability to support the delivery of major infrastructure projects across central and local government;
- Act as a first point of contact for the market in relation to upcoming infrastructure investment and delivery opportunities; and
- Ensure the body's mandate is complementary and does not duplicate the mandate of other agencies or workflows.

Existing organisations and planning

LGNZ understands that the current planning and monitoring environment is complicated and there are overlapping activities within and across government agencies and organisations. LGNZ communicates with its members on numerous focus areas in addition to four flag ship project areas; housing, climate change, water, and localism. Many intersect on infrastructure provision. For example, on the topic of housing we coordinate with MBIE, MSD, Treasury, MfE and the new MHUD. Additionally, there exists many plans with oversight bodies and groups, including but not limited to:

- A 30-Year Infrastructure Plan;
- A Capital Intentions Plan;
- Regular reports on the state of key elements of infrastructure;
- A National Infrastructure Advisory Board that participates in the Australia New Zealand Infrastructure Pipeline.
- Treasury's National Infrastructure Unit;
- Treasury's Public Private Partnership Team;
- An Investment Performance and Asset Management Team within Treasury; and
- The New Zealand Government Procurement and Property branch of MBIE, which operates a commercial pool of experts.

In short, adding a new, independent body to aid in the delivery of badly needed infrastructure holds promise, but if not executed with precision and accuracy, could add to a very complicated and opaque process.

Questions and answers

The treasury has asked that response address the following questions. LGNZ has taken into consideration these inquiries, and in addition to in-person meetings, has the following to add to our points.

1. Options for institutional form and powers of the infrastructure body?

A new body can only effect change and “turn the dial” of progress when it has the right people in the right place, reaching for clear and achievable outcomes. A new infrastructure body must be supported, and perhaps even housed, within Treasury to ensure proper support with an established administration and capable staff with strong nous on government processes, procedures, standards and outcomes.

The new body’s recommendations should be independent from existing policy boundaries – to provide thoughtful and objective assistance and recommendations. Government should be required to respond to recommendations in a timely way. We believe the approach to infrastructure is evolving and recent population change as well as future demographic and climate change ensures that “just in time” capital investment as well as operations and maintenance activities will not suffice to meet New Zealand’s growing demands.

Further, infrastructure investment should not be a partisan issue, and the body should be lead by a core, independent board with the options to ensure they are guided by expertise and capability, with options to include ad-hoc members based on subject review. The breadth and depth must include not only policy and regulatory experience, but operations capability.

The new body will make decisions that affect both the private and local government sectors. As such, we see it as particularly important that representatives from these sectors have influence in the decision-making process at a governance level. Where local government representatives are concerned, this must include individuals with a full understanding of how the sector works and its capability to execute on initiatives. LGNZ notes that guidance to central government policymakers to consider the impact their decisions have on local government is minimal, bordering on deficient (a point underscored by the Productivity Commission). Without representation at the governance level, there is a risk the new infrastructure body may impose direct and indirect costs on councils that exceed the benefits they get from more integrated thinking around infrastructure provision. We would also note that there are already existing centres of excellence focused on the provision of core infrastructure at a local level, such as the Road Efficiency Group. The new infrastructure body would benefit from tapping into this deep pool of experience, and the networks that underpin them, which is most efficiently enabled by having local government representation at the governance tier of the new infrastructure body.

The provision of key infrastructure that supports and sustains the approach to the living standards framework as well as the Urban Growth Agenda is critical. New Zealand cannot afford to sweat the equity from roads, water, buildings and other essential infrastructure without damaging future prospects for growth and our international reputation for quality in all aspects of our natural and built environment.

2. How the infrastructure body's role will fit with the wider infrastructure system?

Our submission looks beyond the immediacy of the present proposal to a possible future where the ambit of the planned body might constructively evolve.

As our opening comments observed one of LGNZ's chief questions is how such a body might move the dial in terms of outcomes for the country. While supporting an infrastructure body that is independent and able to operate to clear guiding principles that are enshrined in legislation, that in and of itself may, and probably will, not be enough. We base this view on our observation of the Productivity Commission model over time.

LGNZ is supportive of the Productivity Commission. While not always agreeing with all of the Commission's recommendations, we value the independent and rigorous intellectual and evidence-based approach that the Commission brings to its work. The problem is that the Government of the day rarely takes action in response to the Commission's recommendations. This is not a criticism of the Commission but rather it is a criticism of the framework in which the Productivity Commission is required to do its work.

Given that precedent, we have considered how the proposed model for the new infrastructure body might constructively evolve. In our view, oversight of economic regulation (not competition law more generally) for network infrastructure might be one way to achieve such an outcome. This is because regulatory arrangements play a significant role in driving incentives for investment.

For example, New Zealand and Melbourne have nearly the same size population (Melbourne is larger), yet we have quite different economic regulatory oversight (distinct from ownership and delivery) of each of the three main network infrastructure types, namely:

- Electricity market – Electricity Authority and Commerce Commission;
- Gas market – Gas Industry Company and Commerce Commission; and
- Telecommunications market – Telecommunications Commissioner.

Presently the Government is considering the future regulatory arrangements for three waters infrastructure that might add a new and different form of economic regulation for this asset class.

Differences have arisen over time accordingly to the reform processes that played out in each asset class. At their heart, however each is a network infrastructure with broad public policy economic concerns that are similar though the asset types differ.

LGNZ considers that the time may be appropriate to consider whether better value will be gained by aggregating the economic regulatory functions of these various regulators into a single utilities commission into which many, if not all, of the functionality of the new infrastructure body could also be rolled. The information attributes of the proposed new body would be informed by the activities and knowledge attained in carrying out the economic regulatory functions for each network asset class.

In our view, some form of coherence to the economic regulation of network utilities would assist in bringing more consistency to the New Zealand scene and assist in achieving the outcomes we as a nation expect our infrastructure investments to deliver.

A significant advantage of this approach is that it would provide a system-wide view of the regulatory landscape, allowing the new regulatory body to develop and propose more efficient arrangements that align various pieces of regulatory work to improve the efficiency of the overall system. This would be an improvement on the status quo where regulators limit their focus to the ambits of their enabling legislation.

3. Arrangements for ensuring the infrastructure body is mandated appropriately so it can perform its role, while recognising the ultimate responsibility of governments to make decisions on infrastructure and investments?

A mandate for a new body will be underpinned by internal and external factors. Internally, in our view, a new body must cover three key interrelated issues. It must be an all-of-government leadership initiative, its mission must be premised on filling a gap made clear by circumstance or research revealing a deficiency, and it must confirm that where other, associated efforts in government have been made, organisational design and capability allocated this new body will be fit-for-purpose.

More to the point, this new body has most recently appeared as the result, and for the benefit of the Minister for Infrastructure. It appears this way as there are so many other organisations and units working together on what may be the same outcome that this new body looks to achieve. This body must have a higher purpose than to simply consolidate efforts for simplicity. It must have real, measurable outcomes that are updated through a public business plan. Further, its focus on services can be short term (one-five years), but institutional and regulatory planning must clearly be directed in the timeframe of decades to be truly sustainable. This approach must be couched in a simple, clear message of what it will and will not do. The risk of “muddying the waters” with another government body is high if its mission does not highlight what it will not do. Further, in our view, its budget and role must be robust enough to attract and combine the efforts of those who are the best from a disparate set of disciplines that make infrastructure effective.

There are numerous external variables that must be considered to ensure a successful mandate, but in our view, those of economic, regulatory, environment and technology hold the greatest priority. As noted in Answer #2, focus on shifting the existing economic and regulatory frameworks may hold substantial opportunity for shifting delivery of infrastructure across the country, and attention to moving and consolidating frameworks may have significant benefit if executed effectively.

The natural environment is changing, and the pace of that change is increasing. How our government will be able to respond to ensure an acceptable (or at least predictable) level of service will be critical to our economic resilience. That same may be said of technology in certain areas. For example, some of the country’s heaviest investments are allocated to sustaining and growing our roading networks. Understanding different ways in which to forecast and respond to changes in technology will be critical to funding and financing what and where to make future investments.

4. Accountability mechanisms for the Minister for Infrastructure and government to retain control over the Government’s policy direction and prioritisation?

We have noted that we are supportive of the Productivity Commission and its efforts. We don’t always agree with its recommendations, but when we do the absence of Government acknowledgement and response is noted. There are several forms of accountability that may be discussed (eg professional, legal) but for this proposed organisation, the most appropriate is political.

A core element of existence that must be embedded in legislation is a contract with the New Zealand public that a new body will deliver progress on outcomes - and report on successes and failures - at prescribed intervals. Further, at those intervals, Government will respond or comment on progress. Responses may take several forms but outcomes must influence long-term planning and reporting on initiatives such as our recommendation noted in #2 above. Short-term reporting may coincide and aid planning, for example, in the Government Policy Statement on land transport or in evaluation of outcomes from the National Policy Statement on Urban Development Capacity.

Embedding, rather than adding this body's outcomes, into a process of acknowledgement and recognition of government business functions and planning for infrastructure will be key. If implemented effectively, it will make this new body's approach and recommendations a compass for future planning – and will leverage public recognition and interest as well as hinge future growth on its foresight.

5. The overall purpose and objectives of the infrastructure body to ensure it is properly directed toward considering the broader public good benefits of infrastructure

Ensuring the body is mandated appropriately requires definition of its role, particularly compared to that of other government organisations, bodies and units. Main points of this issue were outlined in #3 above with reference to the mission statement and reporting. We also note that reference should include a focus on outcomes that relate to national living standards, which in turn relate to levels of service. Clarity and engagement (not consultation) with those that perform operational actions (eg councils and the public) will be critical to ensure attainable objectives and to communicate where outcomes may or may not meet public expectation. A culture of quality and timely delivery to customers (not government) must be initiated from a governing board and permeate the organisation to ensure success, and must be an essential qualification for leadership and guidance of this new body.

Conclusion

Provided the window of comment for this submission was only three weeks, LGNZ appreciates direct engagement by Treasury leadership and staff on this important issue. Though we would have appreciated more time to interface and surface more ideas from our council stakeholders, we believe some core principles and insights have been communicated.

In summary, Treasury have asked some very high level questions and we hope the answers may assist in providing a foundation for an effective new infrastructure body. It is our hope that government embraces an approach that incorporates shifting frameworks of market delivery, which in turn, improves efficiencies and outcomes. In order to achieve successful outcomes, the new body has to be a lever and a hinge on which infrastructure moves to meet future demand. In order to hinge government and market change, leadership has to rest decisions on those who are the best in their field and work toward a mission that is clear and attainable. Further, to institute the best culture with an organisation of “doers”, leadership must have a broad optic across all infrastructure and be accountable to its customers – the public.